

**Introduced by Senator Cogdill**

February 21, 2007

---

An act to add Section 3352.1 to the Labor Code, and to add Section 631.5 to the Unemployment Insurance Code, relating to employment.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 452, as introduced, Cogdill. Employment: family-owned farms: workers' compensation and unemployment insurance.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law defines "employee" for purposes of those provisions as a person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, subject to specified exclusions.

This bill would, additionally, exclude from the definition of "employee" any person who provides services on a family-owned farm, as defined, and is employed, without financial compensation, by his or her parent, spouse, child, grandparent, aunt, uncle, or first or second cousin. This bill would require the Department of Industrial Relations to prescribe a form to be filed by a family-owned farm for purposes of claiming an exemption from the provisions of the workers' compensation system.

Existing law provides that, for purposes of unemployment compensation, "employment" does not include services performed by specified family members for other specified family members.

This bill would, additionally, exempt from the definition of "employee," any person who is employed on a family-owned farm, as

defined, without financial consideration, by his or her parent, spouse, child, grandparent, aunt, uncle, or first or second cousin. This bill would require a family-owned farm to file a prescribed form with the Department of Industrial Relations and be approved for an exemption from the provisions of the unemployment insurance law.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3352.1 is added to the Labor Code, to  
2 read:

3 3352.1. (a) "Employee" excludes any person who provides  
4 services on a family-owned farm and is employed, without financial  
5 compensation, by his or her parent, spouse, child, grandparent,  
6 aunt, uncle, or first or second cousin.

7 (b) For purposes of this section, "a family-owned farm" means  
8 a farm that satisfies both of the following requirements:

9 (1) Generates less than one hundred thousand dollars (\$100,000)  
10 per year in total taxable income, as determined in accordance with  
11 Sections 17073 and 23456 of the Revenue and Taxation Code.

12 (2) Files a family-owned farm exemption form with, and  
13 receives an approval from, the Department of Industrial Relations  
14 to qualify for exemption from the provisions of the workers'  
15 compensation system.

16 (c) The Department of Industrial Relations shall prescribe the  
17 family-owned farm exemption form, for the purpose of maintaining  
18 statewide uniformity, in the contents of the form. The form shall  
19 include, but not be limited to, the questions regarding the names  
20 and relationships of family members who assist on the farm and  
21 the amount of annual taxable income generated by the farm.

22 SEC. 2. Section 631.5 is added to the Unemployment Insurance  
23 Code, to read:

24 631.5. (a) Except to the extent that the employer and the  
25 employee have, pursuant to Section 702.5, elected to make  
26 contributions to the Unemployment Compensation Disability Fund,  
27 "employment" does not include services performed on a  
28 family-owned farm by any person who is employed, without  
29 financial compensation, by his or her parent, spouse, child,  
30 grandparent, aunt, uncle, or first or second cousin.

- 1 (b) For purposes of this section, “a family-owned farm” means
- 2 a farm that satisfies both of the following requirements:
- 3 (1) Generates less than one hundred thousand dollars (\$100,000)
- 4 per year in total taxable income, as determined in accordance with
- 5 Sections 17073 and 23456 of the Revenue and Taxation Code.
- 6 (2) Files a family-owned farm exemption form with, and
- 7 receives an approval from, the Department of Industrial Relations
- 8 to qualify for exemption from the provisions of the unemployment
- 9 insurance law.

O